

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DWAYNE ROBINSON, a Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DWAYNE ROBINSON,

Defendant-Appellant.

UNPUBLISHED

January 28, 2000

No. 213276

Wayne Circuit Court

Family Division

LC No. 95-335224

Before: Cavanagh, P.J., and White and Talbot, JJ.

MEMORANDUM.

In this delinquency proceeding, defendant was found guilty, after a bench trial before a referee, of third-degree criminal sexual conduct, MCL 750.520d(1)(b); MSA 28.788(4)(1)(b). The order of disposition signed by a probate judge sentenced him to probation. Defendant appeals as of right, and we affirm.

Defendant first claims that the evidence was not sufficient to support a finding of guilt beyond a reasonable doubt. Defendant fails to explain why the evidence was insufficient. Our own review of the record shows that the complainant's testimony was sufficient to support the charge, and the question of the complainant's and defendant's credibility was for the fact-finder. We therefore reject this claim of error.

Defendant also claims that the trial court shifted the burden of proof to defendant when it questioned defendant about the victim's possible motive for making the accusation against defendant. We disagree.

A defendant is not required to produce evidence of innocence. *People v Fields*, 450 Mich 94, 115; 538 NW2d 356 (1995). However, the trial court may interrogate witnesses under MRE 614(b).

The questioning of witnesses is permissible for purposes of clarifying testimony or eliciting additional information. *People v Cheeks*, 216 Mich App 470, 480; 549 NW2d 584 (1996).

In the current case, we do not agree that the trial court's questions shifted the burden of proof to defendant. Defendant testified that he knew the victim prior to the night in question, but he denied knowing the victim by name or knowing the victim's boyfriend. The trial court asked defendant why the victim would make the allegation. When defendant responded by saying that he did not know, the trial court asked if there had been any bad blood or arguments between defendant and the victim. These questions were proper under the circumstances. Read in context, the questions served the permissible purpose of eliciting testimony. The trial court stated that without a history of bad blood, there was no reason to question the victim's testimony. The fact that the trial court relied upon defendant's answers in determining credibility issues did not shift the burden of proof to defendant. Nor does the dialogue indicate that the court regarded it as defendant's burden to disprove the prosecutor's case. Rather, the court, apparently finding the complainant's testimony otherwise believable, was exploring her potential motivations for making false allegations.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Helene N. White

/s/ Michael J. Talbot